

Case 5:10-ct-03165-D Document 67 Filed 04/03/13 Page 1 of 3

consider his amended complaint. See Scinto v. Stansberry, No. 12-7248, 2013 WL 285730, at *1–2 (4th Cir. Jan. 25, 2013) (per curiam) (unpublished). On February 7, 2013, Scinto filed a motion for change of venue [D.E. 64].

First, the court addresses Scinto’s motion for change of venue. Scinto seeks “a change of venue pursuant to 28 U.S.C. 1404 and/or any other Rule and/or Statute that would allow such venue change to another federal district court in this State or any other State in the Country” because “the Eastern District of North Carolina has demonstrated extreme bias against [Scinto] in every case brought before it.” Mot. 1. Section 1391 of Title 28 of the United States Code provides the framework for determining proper venue in civil cases. When jurisdiction is not premised solely on diversity of citizenship,

[a] civil action may be brought in

(1) a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located;

(2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated; or

(3) if there is no district in which an action may otherwise be brought . . . , any judicial district in which any defendant is subject to the court’s personal jurisdiction with respect to such action.


28 U.S.C. § 1391(b).

The claims in Scinto’s amended complaint [D.E. 52] arose at the Federal Correctional Complex in Butner, North Carolina, which is located in this district. See 28 U.S.C. § 113(a). Moreover, Scinto is a resident of this district. Thus, venue is proper here. See 28 U.S.C. § 1391(b). The motion to transfer venue is denied.

To the extent Scinto's motion seeks recusal, "judicial rulings alone almost never constitute a valid basis for a bias or partiality motion . . . and can only in the rarest circumstances evidence the degree of favoritism or antagonism required . . . when no extrajudicial source is involved." Liteky v. United States, 510 U.S. 540, 555 (1994); see United States v. Gordon, 61 F.3d 263, 267–68 (4th Cir. 1995); In re Beard, 811 F.2d 818, 828 (4th Cir. 1987). Accordingly, to the extent Scinto seeks recusal, the motion is denied.

In light of the Fourth Circuit's holding, the court GRANTS Scinto's motion to amend [D.E. 52], and DIRECTS the clerk to add the newly-named defendants as parties of record and to issue summonses for service on those defendants by the United States Marshal. See Am. Compl. [D.E. 52] 7. The United States Marshal shall promptly serve the newly named defendants. Within twenty days after the Marshal's return of service on the additional defendants, the parties shall confer and file a proposed scheduling order (or separate proposed orders, if the parties cannot agree). The court expects the proposed scheduling order to have a brief discovery period and a prompt deadline for dispositive motions in order to move this long-pending case to resolution. Magistrate Judge Webb will review the proposals and enter a scheduling order. The parties should not expect continuances of the deadlines in the scheduling order.

SO ORDERED. This 3 day of April 2013.


JAMES C. DEVER III
Chief United States District Judge